

Rule 11-3. Case Progression

A. CASE PROGRESSION STANDARDS: In any case where the court has determined that there is a lack of sufficient prosecution under the case progression guidelines established by the Nebraska Supreme Court, or such shorter period as may be appropriate under the circumstances, the court may enter an order to show cause why the case should not be dismissed, or the court may, after notice and opportunity for a hearing, enter a dismissal of the case. Any order of dismissal may be set aside within the term upon motion, notice, and good cause shown.

B. AUTOMATIC CASE PROGRESSION: When a civil jury case is first filed with the Clerk of the District Court, it shall be immediately given to the assigned judge. The judge shall issue an order setting out the date for pleadings to be complete not inconsistent with the law, a date for completion of discovery, a date for a pretrial conference, and a proposed trial date. These dates shall be binding upon all parties to the litigation unless one or more of them, by motion and upon good cause being shown, but without hearing, request that the case not be handled in the expedited manner as set out in this rule.

C. PRETRIAL AND POST-TRIAL MOTIONS:

(i) Unless otherwise ordered by the court, all pretrial and posttrial motions or similar filings which require a hearing shall be filed at least three days prior to the hearing. The party or counsel so filing shall obtain a date for the hearing at the next available motion day, or sooner if necessary. The party or counsel shall file a notice of hearing with any such pleading or motion which requires a hearing. The notice of hearing may be placed on the pleading or motion itself and, in any event, is to be served on opposing parties with the pleading or motion. Any pleading or motion that is filed without a date for hearing being set or without a notice of hearing having been obtained shall be filed by the clerk and immediately brought to the attention of the Court. The Court may, on its own motion after hearing, overrule the motion or strike the pleading from the file for failure to comply with this rule or set the matter for hearing, upon proper notice, and/or assess sanctions, including attorney fees, against the party in violation of the rule. The use of ordinary mail for notice of hearing shall constitute sufficient compliance with this rule except as may be otherwise required by statute or Supreme Court rule.

(ii) Any party required to plead or plead further after a ruling on a special appearance, demurrer or motion, shall do so within ten (10) days. If a party chooses to answer, the answer shall be filed within twenty (20) days.

(iii) All hearings on all motions or pleadings may be heard by telephone conference. The party wishing to set a motion by telephone conference shall arrange the time for the conference and shall initiate the conference call and be responsible for the expense of the call. No oral testimony may be adduced during any telephone conference. All evidence to be adduced during any telephone conference shall be submitted to the court and to opposing counsel no less than 5 days prior to the hearing. Any such telephone proceeding held pursuant to Neb. Rev. Stat. § 24-734 (Reissue 1989) shall not exclude the general public except as provided by law or Supreme Court rule.

(iv) Motion days shall be set for the various counties by the court. On any motion day, each judge will hear any case regardless of to whom the case is assigned. However, the judge will not hear final contested divorces, contested modification of divorce decrees, sentencings, preliminary criminal motions except arraignments, or any final contested matter unless it is assigned to that particular judge.

(v) The court shall be available to sign any orders, judgments, journal entries, or to consider any other matter during recess in any trial or at any other time requested by counsel.

(vi) It shall be the duty of the counsel for the side in whose favor a decision is rendered or order is made to promptly prepare a journal entry or order. The proposed journal entry or order shall be delivered for signature within ten (10) days. Opposing counsel or party shall be mailed a copy of the proposed journal entry or order. If there is an objection to the proposed journal entry or order, it shall be the duty of the objecting party to contact the court and state the objection. The court will then determine whether to sign the journal entry or order or require preparation of a new one. It shall be the duty of the counsel for the party in whose favor a judgment or decree has been entered to immediately notify the Clerk of the District Court of such judgment or decree. No file may be removed from the courthouse until the Clerk has been notified of the judgment or decree. Upon such notification the file may be checked out to counsel to allow preparation of the judgment or decree.

D. CONTINUANCES: Motions for continuances shall comply with Nebraska Statutes and be set for hearing prior to the original date for trial of the matter sought to be continued. Further, all motions for continuance shall be submitted to opposing counsel prior to any hearing. Opposing counsel shall indicate on the motion that there is no objection to the motion, that the opposing counsel objects to the motion but agrees to submit the motion without argument, or objects to the motion. If opposing counsel objects to the motion it shall be set for hearing as any other motion. If there is no objection or if opposing counsel agrees to submit the motion without argument, the court will review the motion without further hearing. The decision to grant or deny a motion for continuance rests finally with the court.

E. DISCOVERY: No motion concerning discovery will be heard by the court unless the moving party certifies that opposing counsel has been contracted and a good faith effort has been made to resolve any dispute in regard to discovery. The certification shall include copies of any correspondence between counsel in regard to the discovery dispute. Depositions, interrogatories, and requests for production, and answers thereto, shall not be filed with any motion to compel discovery; instead, the necessary documents to establish the right to compel discovery shall be delivered to the court reporter at the hearing for marking as exhibits.

F. MOTIONS FOR SUMMARY JUDGMENT: Counsel for each party shall submit a brief in support of or in opposition to the motion for summary judgment. The briefs shall contain a reference to the evidence submitted specifically noting the discovery response or portion of the depositions by line and page that is relied upon by that party in regard to whether or not there are material issues of fact to be decided by the trier of fact.

Adopted effective November 3, 1995; Rule 11-3C(iii) and 11-3D amended effective January 16, 2002; Rule 11-3E and 11-3F adopted effective January 16, 2002; Rule 11-3E approved April 25, 2012.
